

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-107-00215R

Parcel No. 894711233008

Callin Cummings,

Appellant,

vs.

Sioux City Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on October 21, 2019. Callin Cummings was self-represented. Attorney Angie Schneiderman represented the Sioux City Board of Review.

Callin Cummings, LLC (Cummings) owns a two-unit residential property located at 4339-41 Grant Street, Sioux City. The property's January 1, 2019, assessment was set at \$179,300, allocated as \$23,000 in land value and \$156,300 in dwelling value. (Ex. A).

Cummings petitioned the Board of Review contending the assessment was not equitable compared to the assessments of other like property and the property is assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1 & 2) (2019). The Board of Review denied the petition.

Cummings appealed to PAAB reasserting his inequity and over assessment claims. He also raised a claim of error in assessment to PAAB. § 441.37(1)(a)(1, 2, & 4).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701–126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. *Id.*; see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a one-story duplex built in 2005. It has 1932 square feet of gross living area, no basement, and an open porch shared between the two units. It is listed in normal condition with average-quality construction (grade 4+00). The site is 0.231 acres. (Ex. A).

Cummings asserts his property received an unfair 74% increase in assessed value for 2019. His calculation appears to take into consideration an 8% equalization order issued by the Iowa Department of Revenue in September 2019. See Iowa Dep't of Revenue, 2019 Final Equalization Adjustments, available at <https://tax.iowa.gov/sites/default/files/2019-09/2019FinalOrders.pdf>.¹ Cummings contends the correct actual value of his property is \$130,000.

¹ Although PAAB is aware of the equalization order, its application to the subject property can be separately protested under Iowa Code section 441.49(4) and is not currently before PAAB. For the purposes of this order, the subject's assessed value is the pre-equalized amount of \$179,300.

Cummings submitted two single-family homes located on the subject's street that sold in 2017 and 2018. (Exs. 2-3). He believes these sales show his property is over assessed. A summary of these two properties is shown in the table below.

Comp	Address	Year Built	Gross Living Area (GLA)	Bsmt Size	Sale Date	Sale Price	2019 Assessed Values
SP	Subject	2005	1932	0	NA	NA	\$179,300
1	4343 Grant St	1900	1458	555	3/2017	\$94,500	\$102,400
2	4437 Grant St	1924	840	840	8/2018	\$109,950	NA

We note that Sale 1 is a contract sale and both of these properties sold for less than Cummings' purchase price of the subject property in 2013.

Sale 1 is a two-story, brick, single family residence. Sale 2 is a one-story, bungalow, single family residence. These two properties are significantly older than the subject. They also differ in style, have less gross living areas, and they are not duplexes. Although they are located close to subject, they have very little physical similarity to it and no adjustments were made to arrive at an opinion of value for the subject as of January 1, 2019.

Cummings suggested during his testimony he was told the income approach cannot be considered to value his property. We note Iowa law requires assessed values be based on comparable sales in most cases. See § 441.21(1, 2). Nonetheless, notes on the subject's property record card indicate the Assessor's Office conducted an income approach analysis on the subject and estimated a value of \$179,000. (Ex. A, p. 5).

He testified market and current rents on the subject property produce a small annual income, but after the tax increase associated with the higher assessed value he expects a loss of \$1,538. It is unclear whether Cummings' projections are based on the pre-equalized assessment or the equalized assessment. We presume his projections assume no change in taxing district levy rates.

The Board of Review submitted five equity comparables that are summarized in the following table. (Exs. E-I).

Comp	Address	Year Built	Gross Living Area (SF)	Basement (SF)	Sale Date	Sale Price	2019 Assessed Values
SP	Subject	2005	1932	0	NA	NA	\$179,300
1	4425-27 Tyler St	1975	1500	0	NA	NA	\$141,100
2	4520 Harrison St	1974	1320	0	NA	NA	\$128,300
3	4061-63 Capitol St	1955	1648	824	NA	NA	\$130,100
4	3298 Floyd Blvd	1955	1518	759	NA	NA	\$108,000
5	4407-11 Polk St	1977	1968	1968	2/2018	\$170,000	\$202,800

Cummings testified Comparables 1 and 2 would be most comparable to the subject because they are also located in the Leeds neighborhood.

Though not proper methodology for evaluating equity, we note the comparables' assessed value per square foot range from \$71.15 to \$103.05; at \$92.81 per square foot, the subject's assessed value is within the range. Its assessed value per square foot is also less than those of Comparables 1 and 2.

Only Comparable 5 has recently sold and can be used to develop an assessed-value-to-sale-price ratio. Comparable 5's ratio is 1.19.² A ratio over 1.00 may be indicative of over assessment.

The Board of Review submitted three duplex sales that it believes support the subject's assessed value. (Exs. K-M).

	Address	Year Built	Gross Living Area (SF)	Basement (SF)	Sale Date	Sale Price (SP)	SP/SF	2019 Assessed Values
	Subject	2005	1932	0	NA	NA		\$179,300
1	4407-11 Polk St	1977	1968	1968	2/2018	\$170,000	\$86.38	\$202,800
2	3626-28 Hamilton Blvd	1959	1720	1720	2/2018	\$161,250	\$93.75	\$154,900
3	2415-17 Chicago Ave	1996	1832	0	9/2018	\$180,000	\$98.25	\$171,500

The subject's total assessed value per square foot is \$92.81. The Board of Review asserts the unadjusted sale price per square foot of its comparables support this assessment. Based on the mean and median sale price per square foot of these sales, the Board of Review asserts the subject property would have a value between \$179,300 and \$181,100.

² \$202,800 Assessed Value / \$170,000 Sale Price = 1.19 Ratio

Sales 1 and 2 are older in age but have full basements. Sale 3 is most similar in age to the subject, slightly smaller in size, and, like the subject, has no basement. However, Sale 3 features both a two-car attached garage and a two-car detached garage. Sale 3 also has two wood decks. Cummings also believed Sale 3 is more desirable because of its location in the Morningside neighborhood.

Analysis & Conclusions of Law

Cummings contends the subject property is inequitably assessed, over assessed, and that there is an error in the assessment. § 441.37(1)(a)(1, 2, & 4).

Cummings testified the error he claimed was related to the 74% increase in assessed value. Therefore, this appears to be part of his over assessment claim and we will forego any further discussion of error and focus on his other claims.

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Cummings offered no evidence of the Assessor applying an assessment method in a non-uniform manner.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019 assessments) of comparable properties, the subject property is assessed at a higher portion of its actual value. *Id.* Cummings submitted only one 2018 sale, but more than one comparable is required to prove inequity. *Miller v. Property Assessment Appeal Bd.*, 2019 WL 3714977 *4 (Iowa Ct. App Aug. 7, 2019). Nevertheless, because a showing of the subject's actual value is also required in an over assessment claim, we will forego further analysis of the inequity claim and turn our focus to the over assessment claim.

Cummings claims his property is assessed for more than the value authorized by law. In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the

assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sale prices of the subject property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Other approaches, such as cost and income, should only be considered if comparable sales cannot readily establish the subject property's market value. § 441.21(2). Typically, market value is demonstrated with a competent appraisal or comparative market analysis considering, at minimum, the sales comparison approach to value. It is not sufficient to simply compare other properties' assessments to succeed in an over assessment claim.

In support of his claim, Cummings submitted two sales. He also testified about his profit projection based on the 2019 assessed value, but we find that is not evidence of the property's value and give it no further consideration.

Cummings' comparables sold in 2017 and 2018, but were unadjusted for differences between them and the subject property. One sale was on contract. Iowa courts have acknowledged that contract sales should only be used with "considerable care." *Redfield v. Iowa State Highway Comm'n.* 110 N.W.2d 397, 402 (Iowa 1961). Unadjusted contract sales "must be carefully examined to ensure they reflect the market value of the property." *Payton Apartments, Ltd. V. Bd. of Review of City of Des Moines*, 358 N.W.2d 325, 329 (Iowa Ct. App. Sept. 25, 1984).

Further, these properties were dissimilar to the subject because they were single family residences that were much older in actual age and had different features. *Soifer*, 759 N.W.2d at 783 (discussing necessity of adjustments to comparables "to the extent any differences would distort the market value of the [subject] property in the absence of such adjustments."). We believe these differences would require adjustment to provide an accurate reflection of the subject's market value.

Viewing the record as a whole, we are not persuaded that Cummings' property is inequitably assessed or over assessed. He did not offer reliable evidence of the subject's actual fair market value and we find Cummings failed to support his claims.

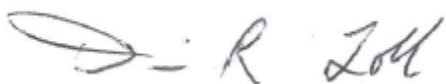
Order

PAAB HEREBY AFFIRMS the Sioux City Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.19 (2019).



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

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